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EX PARTE OR LATE FILED

December 15, 1995

BY HAND

DEC 15 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Submission
GEN Docket No. 90-314

Dear Mr. Caton:

Today the attached document related to the above-captioned docket was provided to Rosalind Allen of the Wireless Telecommunications Bureau and Cricket Jackson of the Office of General Counsel on behalf of SBC Communications Inc. This information was provided in anticipation of meetings scheduled for Monday, December 18, 1995 with the Wireless Bureau and the General Counsel's Office.

An original and one copy of this Notice are being submitted to the Secretary, with a copy served as well on Ms. Allen and Ms. Jackson. Please contact me if you have any questions regarding this matter.

Respectfully submitted,



Richard M. Firestone

Enclosure

cc: Rosalind Allen
Cricket Jackson

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December 15, 1995

In the Matter of)
)
Amendment of the Commission's) GEN Docket No. 90-314
Rules to Establish New Personal)
Communications Services)

**Ex Parte Presentation of
SBC Communications Inc. ("SBC")**

The public interest would be served by -- and the Commission is now required to proceed rapidly to consider -- the elimination of the cellular structural separation requirements of Section 22.903, in light of:

- the Commission's decision not to impose structural separation for PCS while retaining it for cellular;
- the Sixth Circuit's finding that that decision was "arbitrary and capricious" and its command that the FCC act now;
- the dynamic market forces underway today, and the regulatory anomalies created by a continuation of the structural separation requirements; and
- the fact that existing non-structural safeguards are fully adequate to address any possible concerns regarding cross-subsidization or interconnection discrimination.

At a minimum, immediate interim relief is necessary and appropriate at this time.

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The existing separation rule -- which applies only to the Bell Operating Companies (BOCs) and only to cellular service -- harms consumers and inhibits competition.

- It harms consumers because it deprives them of the benefits of integrated services and one-stop shopping, which the Commission has recognized on numerous occasions.
- In the absence of the rule, BOC customers would enjoy the option of a single point of contact for both wired and wireless services; they could obtain CPE as well as repair and maintenance services from the same personnel; they could use and pay for only a single voice mailbox serving multiple phones; and they could receive and pay only one bill.

The rule inhibits competition by requiring inefficiencies in the operations of the BOCs, which adds costs to consumers, and the rule fosters a number of regulatory anomalies. For example:

- GTE, one of the largest local exchange carriers, is not required to provide cellular service on a separated basis;
- The new PCS licensees are not required to operate separate from their local exchange affiliates; and
- In one county in Oklahoma, where SWBT is the local exchange carrier, it is allowed to integrate with SBMS's PCS service in one portion of the county, but prohibited from integrating with SBMS's cellular service in another portion of the same county.

For the foregoing reasons, the Commission should either:

- eliminate Section 22.903 (in whole or in part) without further notice and comment; or
- promptly issue a further notice of proposed rulemaking directed specifically at eliminating Section 22.903 (in whole or in part).

If the Commission decides to seek additional comments in this proceeding -- which must be highly expedited under the 6th Circuit's mandate -- it should immediately (or at the outset of the new comment period) grant interim relief on its own motion, consisting of:

- a waiver, applicable to all BOCs, of subsections (b)(2), (b)(3), (b)(4) and (e) of Section 22.903; and
- an amendment to the definition of "BOC" for purposes of subsection (d) to make clear that "BOC" only means the LEC affiliate (as was the case under former Section 22.901).

In addition, the Commission should grant the other pending requests for waivers and reconsideration of Section 22.903 (filed by SBMS, BellSouth, and Ameritech).